

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
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 v.) CRIMINAL NO. 05-cr-30046-MAP
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 EDUARDO PAGAN,)
 Defendant.)

THE GOVERNMENT'S AND THE DEFENDANT'S STATUS
REPORT PURSUANT TO LOCAL RULE 116.5(A)

The United States of America, by Michael J. Sullivan, United States Attorney for the District of Massachusetts, and Attorney Robert Astor, hereby submit the following status report pursuant to Local Rule 116.5(A) and Magistrate Judge Neiman's written orders.

1. The parties agree that this is not a complex case and therefore relief from the timing requirements imposed by Local Rule 116.3 is unnecessary.

2. The government has provided automatic discovery to the defendant pursuant to Fed.R.Crim.P. 16.1 (C) and 116.2 of the Local Rules of the United States. Additional discovery will be provided to counsel upon receipt of the discovery by the undersigned U.S. Attorney. For example, the FBI is in the process of copying numerous recording made during this investigation. The government will forward the copies relevant to the above-captioned case upon receipt from the FBI. The government has requested reciprocal discovery pursuant to Fed.R.Crim.P. 16(B)(1)(C). The Defendant has requested further

discovery through his discovery letter dated July 5, 2005. The information the Defendant requested is not currently in the undersigned U.S. Attorney's possession. The government respectfully requests more time to formulate its response to this letter.

3. The parties agree that it is premature for a motion date to be established under Fed.R.Crim.P. 12(c).

4. The parties agree that the time from the Defendant's initial appearance, June 15, 2005, through the initial status date, August 2, 2005 is excludable from the Speedy Trial Act in the interests of justice pursuant to 18 U.S.C. Section 3161(h)(8)(A) and Local Rule 112.2(A)(1),(2), and (3). This case involves audio and video recordings of which counsel has experienced difficulties accessing on his computer. The undersigned Assistant U.S. Attorney met with counsel, and displayed portions of the video recording for counsel. Accordingly, the government requests that the Court issue an order indicating that the time from initial appearance to the present is excludable pursuant to Local Rule 112.2(B).

5. The parties are unclear at present whether this case will be resolved pursuant to a trial or a change of plea.

6. The parties agree that it is premature to establish a final status conference at this time.

7. The undersigned U.S. Attorney and Attorney Astor, counsel for Defendant, reviewed this status report on August 2,

2004. Counsel has indicated his assent to the contents of this report.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Paul Hart Smyth

Paul Hart Smyth
Assistant U.S. Attorney

/s/ Robert Astor
Robert Astor, Esq.
Counsel for Eduardo Pagan